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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/657,719      | 09/08/2000  | Kevin E. Mahaffy     | AAI-002             | 2832             |

7590 03/24/2003

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EXAMINER

CUFF, MICHAEL A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3627     |              |

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                       |
|------------------------------|--------------------------------------|---------------------------------------|
| <b>Office Action Summary</b> | Application No.<br><b>09/657,719</b> | Applicant(s)<br><b>Mahaffy et al.</b> |
|                              | Examiner<br><b>Michael Cuff</b>      | Art Unit<br><b>3627</b>               |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on Jan 12, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 1-40 and 42 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-40 and 42 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment, filed 1/12/03 has been received and entered. Claim 41 has been canceled. Claims 20, 21, 23-26, 29, 30, and 32-40 have been amended.

### ***Election/Restriction***

2. Applicant confirms election to prosecute the invention of claims 1-42, without traverse.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 8-14, 17, 20, 22-25, 27-29, 31-36, and 39-40 are rejected under 35 U.S.C.

102(b) as being anticipated by Schneider (5,083,638).

Schneider shows, figures 1 and 2, an automated point-of-sale machine. The robot module (first CIT), as shown in figure 1, has a microphone 13 (adapted to receive the verbal instructions and provide an audio signal), a video display terminal (video confirmation, details of transaction), and a speaker system 12 (audio confirmation). Buttons 1 to 10 are for the consumer to

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communicate with the robot module. Column 6, line 48-51 recites that the buttons 1 to 10 can be replaced by other means of user interfaces, one of these could be a voice recognition circuitry (AI system recognizing verbal instructions, integral with first CIT, provides responsive feedback). Apparatus to process means of payment can be built into the robot module (column 10, lines 4-8) (first CIT includes a payment system including a currency reader) There is also video cameras 18/32 and a printer (not shown, but part of the payment system.). The supervisor module (human controlled response system in communication with the first CIT, remotely located, can be off premises), as shown in figure 2, allows a store employee to supervise the operation of the robot module. Operator keyboard 57 is the input device for control of the robot module (override capability). The supervisory employee may be expected to enter a code or to approve a product number chosen by the consumer. (These functions are seamless and the customer may not be aware of these actions.)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-7, 15-16, 18-19, 21, 26, 30, 37-38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider.

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Schneider shows all of the limitations of the claims except for specifying specific video display animations, characters or advertisements; restaurant applications; the use of VoIP; and specific communications between computers (ie wireless or computer A communicates to computer B).

The examiner takes official notice that the video displays, applications, protocols, and communication connections are well known in the art and that one of ordinary skill in the art would make use of these standard items in order to take advantage reliable off-the-shelf items.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Schneider system to incorporate specific video display animations, characters or advertisements; restaurant applications; the use of VoIP; and specific communications between computers (ie wireless or computer A communicates to computer B) in order to take advantage reliable off-the-shelf items.

#### *Response to Arguments*

7. Applicant's arguments filed 1/12/03 have been fully considered but they are not persuasive.

Upon reading applicant's arguments, it appears that most of the arguments depend on if the voice recognition system of Schneider constitutes artificial intelligence (AI). Applicant asserts that AI includes "a probabilistic calculation which is carried (?) to determine the intent behind a string of recognized words". The examiner does not concur. Applicant is reading limitations into the term "AI" which are not claimed. Webster's Ninth New Collegiate Dictionary defines

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artificial intelligence as “the capability of a machine to imitate intelligent human behavior.”

Further, in applicant’s claim 1, applicant defines the AI system “which receives said audio signal and processes said audio signal to at least partially recognize the verbal instruction from the customer;”. there is no difference between the claimed AI system and what Schneider shows.

Applicant asserts that the Schneider reference seeks input as opposed to applicant’s invention intervenes when the AI system has not satisfactorily recognized the verbal instruction. The examiner does not see a difference. Both the Schneider apparatus and applicant’s invention seek input when they need help. Both are capable of completing a full transaction without any contact with the human. Applicant asserts that the Schneider “supervisory unit performs a required ‘check’ to limit fraudulent activity and complete transactions that are outside the scope of the POS’s duties”. The examiner does not concur. Video surveillance as a security issue is not required for the process being claimed. Applicant argues that the Schneider system requires input from the supervisory employee for verification of nonlabelled products. So would applicant’s. This is a problem which could not be communicated orally and therefore would have summoned help.

Applicant asserts that Schneider does not show a transfer of communication which is “substantially seamless”. The examiner does not concur. The supervisory employee may be expected to enter a code or to approve a product number chosen by the consumer. These functions are seamless and the customer may not be aware of these actions.

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Applicant asserts that the Schneider reference does not show the particulars of claims 21, 26, 30, 37, 38, and 42. The examiner concurs. These claims have been rejected under an obviousness rejection which has not been disputed.

Applicant asserts that the Schneider reference does not show the particulars of claim 24. The examiner does not concur. See AI discussion.

Applicant asserts that the Schneider reference does not show the particulars of claim 29. The examiner does not concur. The supervisor module can be, as broadly recited, “off-premise”.

Applicant asserts that the Schneider reference does not show the particulars of claim 32. The examiner does not concur. The supervisor module verifies the transaction and therefore the communication.

#### *Official Notice*

The examiner took official notice in the last office action. Applicant has not refuted any of these issues as not being well known in the art and are now considered to be admitted prior art. See MPEP 2144.03, “If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well known statement in the next reply after the Office action in which the well known statement was made. This is necessary because the examiner must be given the opportunity to provide evidence in the next Office action or explain why no evidence is required.”

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***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication should be directed to Michael Cuff at telephone number (703) 308-0610.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 872-9326. (After Final special fax number (703) 872-9327) The customer service number is (703) 872-9325.

*Michael Cuff 3/21/03*  
Michael Cuff  
March 21, 2003